

DIVISION 14.8. SAFETY REGULATIONS

(Added by Ch. 2148, Stats. 1963.)

Required Regulations

34500. The department shall regulate the safe operation of the following vehicles:

(a) Motortrucks of three or more axles that are more than 10,000 pounds gross vehicle weight rating.

(b) Truck tractors.

(c) Buses, schoolbuses, school pupil activity buses, youth buses, and general public paratransit vehicles.

(d) Trailers and semitrailers designed or used for the transportation of more than 10 persons, and the towing motor vehicle.

(e) Trailers and semitrailers, pole or pipe dollies, auxiliary dollies, and logging dollies used in combination with vehicles listed in subdivision (a), (b), (c), or (d). This subdivision does not include camp trailers, trailer coaches, and utility trailers.

(f) Any combination of a motortruck and any vehicle or vehicles set forth in subdivision (e) that exceeds 40 feet in length when coupled together.

(g) Any truck, or any combination of a truck and any other vehicle, transporting hazardous materials.

(h) Manufactured homes which, when moved upon the highway, are required to be moved under a permit as specified in Section 35780 or 35790.

(i) A park trailer, as described in Section 18009.3 of the Health and Safety Code, which, when moved upon a highway, is required to be moved under a permit pursuant to Section 35780.

(j) Any other motortruck not specified in subdivisions (a) to (h), inclusive, or subdivision (k), that is regulated by the Public Utilities Commission or the Interstate Commerce Commission, but only for matters relating to hours of service and logbooks of drivers.

(k) Any commercial motor vehicle with a gross vehicle weight rating of 26,001 or more pounds or any commercial motor vehicle of any gross vehicle weight rating towing any vehicle described in subdivision (e) with a gross vehicle weight rating of more than 10,000 pounds, except combinations including camp trailers, trailer coaches, or utility trailers. For purposes of the subdivision, the term "commercial motor vehicle" has the meaning defined in subdivision (b) of Section 15210.

Amended Ch. 272, Stats. 1993. Effective August 2, 1993.

Amended Sec. 39, Ch. 766, Stats. 1995. Effective January 1, 1996.

Amended Sec. 46, Ch. 724, Stats. 1999. Effective January 1, 2000.

Amended Sec. 7, Ch. 566, Stats. 2000. Effective January 1, 2001.

Regulation of Tour Buses

34500.1. In addition to the duties imposed by Section 34500, the department shall regulate the safe operation of tour buses.

Added Ch. 1306, Stats. 1986. Effective January 1, 1987.

Emergency Vehicles: Exemption

34500.2. No additional inspection shall be required under this division on any vehicle which is owned and operated by a public agency and is used for responding to and returning from an emergency, as defined in subdivision (c) of Section 35002, during the duration of the emergency, as determined by the public agency if an inspection pursuant to Section 1215 of Title 13 of the California Code of Regulations has been completed on the vehicle within the past 24 hours. Any vehicle used in responding to an emergency shall be inspected immediately upon the termination of the emergency.

Added Ch. 899, Stats. 1990. Effective September 14, 1990.

Commercial Motor Vehicle: Definition

34500.5. For purposes of this division, the term “commercial motor vehicle” has the same meaning as defined in subdivision (b) of Section 15210.

Added Sec. 30, Ch. 945, Stats. 1997. Effective January 1, 1998.

Matters Regulated

34501. (a) (1) The department shall adopt reasonable rules and regulations that, in the judgment of the department, are designed to promote the safe operation of vehicles described in Section 34500, regarding, but not limited to, controlled substances and alcohol testing of drivers by motor carriers, hours of service of drivers, equipment, fuel containers, fueling operations, inspection, maintenance, recordkeeping, accident reports, and drawbridges. The rules and regulations shall not, however, be applicable to schoolbuses, which shall be subject to rules and regulations adopted pursuant to Section 34501.5.

The rules and regulations shall exempt local law enforcement agencies, within a single county, engaged in the transportation of inmates or prisoners when those agencies maintain other motor vehicle operations records which furnish hours of service information on drivers which are in substantial compliance with the rules and regulations. This exemption does not apply to any local law enforcement agency engaged in the transportation of inmates or prisoners outside the county in which the agency is located, if that agency would otherwise be required, by existing law, to maintain driving logs.

(2) The department may adopt rules and regulations relating to commercial vehicle safety inspection and out-of-service criteria. In adopting the rules and regulations, the commissioner may consider the commercial vehicle safety inspection and out-of-service criteria adopted by organizations such as the Commercial Vehicle Safety Alliance, other intergovernmental safety group, or the United States Department of Transportation. The commissioner may provide departmental representatives to that alliance or other organization for the purpose of promoting the continued improvement and refinement of compatible nationwide commercial vehicle safety inspection and out-of-service criteria.

(3) The commissioner shall appoint a committee of 15 members, consisting of representatives of industry subject to the regulations to be adopted pursuant to this section, to act in an advisory capacity to the department, and the department shall cooperate and confer with the advisory committee so appointed. The commissioner shall appoint a separate committee to advise the department on rules and regulations concerning wheelchair lifts for installation and use on buses, consisting of persons who use the wheelchair lifts, representatives of transit districts, representatives of designers or manufacturers of wheelchairs and wheelchair lifts, and representatives of the Department of Transportation.

(4) The department may inspect any vehicles in maintenance facilities or terminals, as well as any records relating to the dispatch of vehicles or drivers, and the pay of drivers, to assure compliance with this code and regulations adopted pursuant to this section.

(b) The department, using the definitions adopted pursuant to Section 2402.7, shall adopt regulations for the transportation of hazardous materials in this state, except the transportation of materials which are subject to other provisions of this code, that the department determines are reasonably necessary to ensure the safety of persons and property using the highways. The regulations may include provisions governing the filling, marking, packing, labeling, and assembly of, and containers that may be used for, hazardous materials shipments, and the manner by which the shipper

attests that the shipments are correctly identified and in proper condition for transport.

(c) At least once every 13 months, the department shall inspect every maintenance facility or terminal of any person who at any time operates any bus. If the bus operation includes more than 100 buses, the inspection shall be without prior notice.

(d) The commissioner shall adopt and enforce regulations which will make the public or private users of any bus aware of the operator's last safety rating.

(e) It is unlawful and constitutes a misdemeanor for any person to operate any bus without the inspection specified in subdivision (c) having been conducted.

(f) The department may adopt regulations restricting or prohibiting the movement of any vehicle from a maintenance facility or terminal if the vehicle is found in violation of this code or regulations adopted pursuant to this section.

Amended Ch. 832, Stats. 1994. Effective January 1, 1995.

Amended Sec. 2, Ch. 380, Stats. 1998. Effective January 1, 1999.

Certification of Wheelchair Lifts

34501.1. A manufacturer or distributor of wheelchair lifts for buses, schoolbuses, youth buses, and general public transit vehicles, regardless of capacity, shall, prior to the distribution of the wheelchair lift model in California, provide to the Department of the California Highway Patrol proof of certification from an independent laboratory or registered mechanical engineer of this state that the wheelchair lift model complies with the California and any federal law and the regulations adopted pursuant thereto.

Added Ch. 428, Stats. 1989. Effective January 1, 1990.

Limitations: Driving Hours

34501.2. (a) The regulations adopted under Section 34501 for vehicles engaged in interstate or intrastate commerce shall establish hours-of-service regulations for drivers of those vehicles that are consistent with the hours-of-service regulations adopted by the United States Department of Transportation in Part 395 of Title 49 of the Code of Federal Regulations, as those regulations now exist or are hereafter amended.

(b) The regulations adopted under Section 34501 for vehicles engaged in intrastate commerce that are not transporting hazardous substances or hazardous waste, as those terms are defined by regulations in Section 171.8 of Title 49 of the Code of Federal Regulations, as those regulations now exist or are hereafter amended, shall have the following exceptions:

(1) The maximum driving time within a work period shall be 12 hours for a driver of a truck or truck tractor, except for a driver of a tank vehicle with a capacity of more than 500 gallons transporting flammable liquid, who shall not drive for more than 10 hours within a work period.

(2) No motor carrier shall permit or require a driver to drive, nor shall any driver drive, for any period after having been on duty for 80 hours in any consecutive eight days.

(3) A driver employed by an electrical corporation, as defined in Section 218 of the Public Utilities Code, a gas corporation, as defined in Section 222 of that code, a telephone corporation, as defined in Section 234 of that code, a water corporation, as defined in Section 241 of that code, or a public water district as defined in Section 20200 of the Water Code, may be permitted or required to drive more than the number of hours specified in subdivision (a) while operating a public utility or public water district vehicle during the emergency restoration of service.

(4) Any other exceptions applicable to drivers assigned to governmental fire suppression and prevention, as determined by the department.

(5) A driver employed by a law enforcement agency, as defined in Section 390.3(f)(2) of Title 49 of the Code of Federal Regulations, as that section now exists or is hereafter amended, during an emergency or to restore the public peace.

(c) The regulations adopted under Section 34501 for vehicles engaged in the transportation of farm products in intrastate commerce shall include all of the following provisions:

(1) A driver employed by an agricultural carrier, including a carrier holding a seasonal permit, or by a private carrier, when transporting farm products from the field to the first point of processing or packing, shall not drive for any period after having been on duty 16 hours or more following eight consecutive hours off duty and shall not drive for any period after having been on duty for 112 hours in any consecutive eight-day period, except that a driver transporting special situation farm products from the field to the first point of processing or packing, or transporting livestock from pasture to pasture, may be permitted, during one period of not more than 28 consecutive days or a combination of two periods totaling not more than 28 days in a calendar year, to drive for not more than 12 hours during any workday of not more than 16 hours. A driver who thereby exceeds the driving time limits specified in paragraph (2) of subdivision (b) shall maintain a driver's record of duty status, and shall keep a duplicate copy in his or her possession when driving a vehicle subject to this chapter. These records shall be presented immediately upon request by any authorized employee of the department, or any police officer or deputy sheriff.

(2) Upon the request of the Director of Food and Agriculture, the commissioner may, for good cause, temporarily waive the maximum on-duty time limits applicable to any eight-day period when an emergency exists due to inclement weather, natural disaster, or an adverse economic condition that threatens to disrupt the orderly movement of farm products during harvest for the duration of the emergency. For purposes of this paragraph, an emergency does not include a strike or labor dispute.

(3) For purposes of this subdivision, the following terms have the following meanings:

(A) "Farm products" means every agricultural, horticultural, viticultural, or vegetable product of the soil, honey and beeswax, oilseeds, poultry, livestock, milk, or timber.

(B) "First point of processing or packing" means a location where farm products are dried, canned, extracted, fermented, distilled, frozen, ginned, eviscerated, pasteurized, packed, packaged, bottled, conditioned, or otherwise manufactured, processed, or preserved for distribution in wholesale or retail markets.

(C) "Special situation farm products" means fruit, tomatoes, sugar beets, grains, wine grapes, grape concentrate, cotton, or nuts.

Amended Ch. 208, Stats. 1993. Effective January 1, 1994.

Amended Sec. 1, Ch. 102, Stats. 1995. Effective January 1, 1996.

Amended Sec. 24, Ch. 787, Stats. 2000. Effective January 1, 2001.

Motor Carriers: Unlawful Schedule

34501.3. (a) No motor carrier shall schedule a run or permit or require the operation of any motor vehicle subject to this division between points within a period of time which would do either of the following:

(1) Necessitate the vehicle being operated at speeds greater than those prescribed by this code.

(2) Require the driver of the vehicle to exceed the applicable maximum hours of service.

(b) A logbook of a driver, which reflects a trip or trips between points within a period of time which would have necessitated excessive speed to complete, shall give rise to a rebuttable presumption that the driver exceeded the lawful speed limit.

(c) For a violation of paragraph (2) of subdivision (a), a first offense is punishable by a fine of not more than one thousand dollars (\$1,000), a second offense by a fine of not more than two thousand five hundred dollars (\$2,500), and a third or subsequent offense by a fine of not more than five thousand dollars (\$5,000).

Amended Ch. 392, Stats. 1991. Effective January 1, 1992.

Violation: Logbook Requirements

34501.4. Any driver subject to the hours of service limitations and logbook requirements of this division, who is unable to produce upon request of a representative of the department any driver's logbook or is only able to produce an incomplete driver's log book for the prior 24-hour period, is rebuttably presumed to be in violation of the hours of service limitations in Sections 34501 and 34501.2.

Added Ch. 1306, Stats. 1986. Effective January 1, 1987.

Vehicle Safety Regulations

34501.5. (a) The Department of the California Highway Patrol shall adopt reasonable rules and regulations which, in the judgment of the department, are designed to promote the safe operation of vehicles described in Sections 38045 and 82321 of the Education Code and Sections 545 and 34500 of this code. The Commissioner of the California Highway Patrol shall appoint a committee of 11 members to act in an advisory capacity when developing and adopting regulations affecting school pupil transportation buses and school pupil transportation operations. The advisory committee shall consist of 11 members appointed as follows:

- (1) One member of the State Department of Education.
- (2) One member of the Department of Motor Vehicles.
- (3) One member of the Department of the California Highway Patrol.
- (4) One member who is employed as a schoolbus driver.
- (5) One member of the Office of Traffic Safety in the Business, Transportation and Housing Agency.
- (6) Two members who are schoolbus contractors, one of whom shall be from an urban area of the state and one of whom shall be from a rural area of the state, as determined by the department.
- (7) Two members who are representatives of school districts, one of whom shall be from an urban area of the state and one of whom shall be from a rural area of the state, as determined by the department.
- (8) One professionally licensed member of the American Academy of Pediatrics.

(9) One member representing school pupil transportation operations other than schoolbus operations.

(b) The department shall cooperate and confer with the advisory committee appointed pursuant to this section prior to adopting rules or regulations affecting school pupil transportation buses and school pupil transportation operations.

Amended Sec. 13, Ch. 1008, Stats. 1999. Effective January 1, 2000.

Schoolbuses: Reduced Visibility

34501.6. The governing board of a local educational agency that provides for the transportation of pupils shall adopt procedures that limit the operation of schoolbuses when atmospheric conditions reduce visibility on

the roadway to 200 feet or less during regular home-to-school transportation service. Operational policies for school activity trips shall give schoolbus drivers discretionary authority to discontinue schoolbus operation if the driver determines that it is unsafe to continue operation because of reduced visibility.

Added Ch. 624, Stats. 1992. Effective September 14, 1992.

Regulations: Wheelchair Lifts

34501.7. (a) Any rules or regulations adopted pursuant to Section 34501 for the construction, testing, or certification of wheelchair lifts for installation and use on buses shall take into consideration the costs of implementing the regulations and shall be reviewed and brought up to date by the department annually.

(b) This section shall become operative on July 1, 1987.

Added Ch. 969, Stats. 1986. Operative July 1, 1987.

General Public Paratransit Vehicles: Inspection

34501.8. (a) The Department of the California Highway Patrol shall inspect every general public paratransit vehicle, as defined in Section 336, at least once each year to certify that its condition complies with all provisions of law, including being equipped with a fire extinguisher, first-aid kit, and three-point tie downs for transporting wheelchair passengers.

(b) On or after July 1, 1989, no person shall drive any general public paratransit vehicle unless there is displayed therein a certificate issued by the Department of the California Highway Patrol stating that on a certain date, which shall be within 13 months of the date of operation, an authorized employee of the Department of the California Highway Patrol inspected the general public paratransit vehicle and found that on the date of inspection the general public paratransit vehicle complied with the applicable provisions of state law. The Commissioner of the California Highway Patrol shall provide, by rule or regulation, for the issuance and display of distinctive inspection certificates.

(c) The Commissioner of the California Highway Patrol shall determine a fee and method of collection for the annual inspection of general public paratransit vehicles. The fee, established by regulation, shall be sufficient to cover the cost to the department for general public paratransit vehicle inspections. All fees received shall be deposited in the Motor Vehicle Account in the State Transportation Fund.

This section shall become operative January 1, 1989.

Amended Ch. 683, Stats. 1988. Effective January 1, 1989.

Wages: Nonapplication

34501.9. (a) Nothing in this division or the regulations adopted under this division is intended to, or shall, affect the rate of payment of wages, including, but not limited to, regular, premium, or overtime rates, paid to any person whether for on-duty hours or driving hours or otherwise.

(b) Nothing in this division or the regulations adopted under this division is intended to, or shall, affect the regulations adopted pursuant to other provisions of law concerning the rate or rates of payment of wages by any other public agency, including, but not limited to, the Industrial Welfare Commission or the Division of Labor Standards Enforcement of the Department of Industrial Relations.

Amended Ch. 747, Stats. 1987. Effective January 1, 1988.

Driver Records and Log Books: Location

34501.10. The employer of any person required to keep log books, records of physical examination, and other driver records as may be required

by the Department of the California Highway Patrol, the Department of Motor Vehicles, the Department of Toxic Substances Control, or the State Department of Health Services, shall register with the Department of the California Highway Patrol the address where the log books and other records are available for inspection.

Added Ch. 1452, Stats. 1988. Effective September 28, 1988.

Inspection of Maintenance Facility or Terminal

34501.12. (a) Notwithstanding Section 408, as used in this section and Sections 34505.5 and 34505.6, “motor carrier” means the registered owner of any vehicle described in subdivision (a), (b), (e), (f), or (g) of Section 34500, except in the following circumstances:

(1) The registered owner leases the vehicle to another person for a term of more than four months. If the lease is for more than four months, the lessee is the motor carrier.

(2) The registered owner operates the vehicle exclusively under the authority and direction of another person. If the operation is exclusively under the authority and direction of another person, that other person may assume the responsibilities as the motor carrier. If not so assumed, the registered owner is the motor carrier. A person who assumes the motor carrier responsibilities of another pursuant to subdivision (b) shall provide to that other person whose motor carrier responsibility is so assumed, a completed copy of a department form documenting that assumption, stating the period for which responsibility is assumed, and signed by an agent of the assuming person. A legible copy shall be carried in each vehicle or combination of vehicles operated on the highway during the period for which responsibility is assumed. That copy shall be presented upon request by any authorized employee of the department. The original completed departmental form documenting the assumption shall be provided to the department within 30 days of the assumption. If the assumption of responsibility is terminated, the person who had assumed responsibility shall so notify the department in writing within 30 days of the termination.

(b) (1) A motor carrier may combine two or more terminals for purposes of the inspection required by subdivision (d) subject to all of the following conditions:

(A) The carrier identifies to the department, in writing, each terminal proposed to be included in the combination of terminals for purposes of this subdivision prior to an inspection of the designated terminal pursuant to subdivision (d).

(B) The carrier provides the department, prior to the inspection of the designated terminal pursuant to subdivision (d), a written listing of all its vehicles of a type subject to subdivision (a), (b), (e), (f), or (g) of Section 34500 that are based at each of the terminals combined for purposes of this subdivision. The listing shall specify the number of vehicles of each type at each terminal.

(C) The carrier provides to the department at the designated terminal during the inspection all maintenance records and driver records and a representative sample of vehicles based at each of the terminals included within the combination of terminals.

(2) If the carrier fails to provide the maintenance records, driver records, and representative sample of vehicles pursuant to subparagraph (C) of paragraph (1), the department shall assign the carrier an unsatisfactory terminal rating and require a reinspection to be conducted pursuant to subdivision (h).

(3) For purposes of this subdivision, the following terms have the meanings given:

(A) “Driver records” includes pull notice system records, driver proficiency records, and driver timekeeping records.

(B) “Maintenance records” includes all required maintenance, lubrication, and repair records and drivers’ daily vehicle condition reports.

(C) “Representative sample” means the following, applied separately to the carrier’s fleet of motortrucks and truck tractors and its fleet of trailers:

Fleet Size	Representative Sample
1 or 2	All
3 to 8	3
9 to 15	4
16 to 25	6
26 to 50	9
51 to 90	14
91 or more	20

(c) Each motor carrier who, in this state, directs the operation of, or maintains, any vehicle of a type described in subdivision (a) shall designate one or more terminals, as defined in Section 34515, in this state where vehicles can be inspected by the department pursuant to paragraph (4) of subdivision (a) of Section 34501 and where vehicle inspection and maintenance records and driver records will be made available for inspection.

(d) **(1)** The department shall inspect, at least every 25 months, every terminal, as defined in Section 34515, of any motor carrier who, at any time, operates any vehicle described in subdivision (a).

(2) The department shall place an inspection priority on those terminals operating vehicles listed in subdivision (g) of Section 34500.

(3) As used in this section and in Sections 34505.5 and 34505.6, subdivision (f) of Section 34500 includes only those combinations where the gross vehicle weight rating (GVWR) of the towing vehicle exceeds 10,000 pounds, but does not include a pickup truck, and subdivision (g) of Section 34500 includes only those vehicles transporting hazardous material for which the display of placards is required pursuant to Section 27903, a license is required pursuant to Section 32000.5, or for which hazardous waste transporter registration is required pursuant to Section 25163 of the Health and Safety Code. Historical vehicles, as described in Section 5004, vehicles that display special identification plates in accordance with Section 5011, implements of husbandry and farm vehicles, as defined in Chapter 1 (commencing with Section 36000) of Division 16, and vehicles owned or operated by an agency of the federal government are not subject to this section or to Sections 34505.5 and 34505.6.

(e) **(1)** It is the responsibility of the motor carrier to schedule with the department the inspection required by subdivision (d). The motor carrier shall submit an application form supplied by the department, accompanied by the required fee. The fee, which is nonrefundable, is four hundred dollars (\$400) per terminal, except in the case of an owner-operator, or a nonregulated motor carrier who owns, leases, or otherwise operates not more than one heavy power unit and not more than three towed vehicles described in subdivision (a), (b), (e), (f), or (g) of Section 34500, for which the fee shall

be one hundred dollars (\$100). Federal, state, and local public entities are exempt from the fee requirements of this section.

(2) Except as provided in paragraph (4), the inspection term for each inspected terminal of a motor carrier shall expire 25 months from the date the terminal receives a satisfactory compliance rating, as specified in subdivision (h). Applications and fees for subsequent inspections shall be submitted not earlier than nine months and not later than seven months before the expiration of the motor carrier's then current inspection term. If the motor carrier has submitted the inspection application and the required accompanying fees, but the department is unable to complete the inspection within the 25-month inspection period, then no additional fee shall be required for the inspection requested in the original application.

(3) All fees collected pursuant to this subdivision shall be deposited in the Motor Vehicle Account in the State Transportation Fund. An amount equal to the fees collected shall be available for appropriation by the Legislature from the Motor Vehicle Account to the department for the purpose of conducting truck terminal inspections and for the additional roadside safety inspections required by Section 34514.

(4) To avoid the scheduling of a renewal terminal inspection pursuant to this section during a carrier's seasonal peak business periods, the current inspection term of a terminal that has paid all required fees and has been rated satisfactory in its last inspection may be reduced by not more than nine months if a written request is submitted by the carrier to the department at least four months prior to the desired inspection month, or at the time of payment of renewal inspection fees in compliance with paragraph (2), whichever date is earlier. A motor carrier may request this adjustment of the inspection term during any inspection cycle. A request made pursuant to this paragraph shall not result in a fee proration and does not relieve the carrier from the requirements of paragraph (2).

(f) It is unlawful for a motor carrier to operate any vehicle subject to this section without having submitted an inspection application and the required fees to the department as required by subdivision (e) or (h).

(g) It is unlawful for any motor carrier to operate any vehicle subject to this section after submitting an inspection application to the department, without the inspection described in subdivision (d) having been performed and a safety compliance report having been issued to the motor carrier within the 25-month inspection period or within 60 days immediately preceding the inspection period.

(h) (1) Any inspected terminal that receives an unsatisfactory compliance rating shall be reinspected within 120 days after the issuance of the unsatisfactory compliance rating.

(2) A terminal's first required reinspection under this subdivision shall be without charge unless one or more of the following is established:

(A) The motor carrier's operation presented an imminent danger to public safety.

(B) The motor carrier was not in compliance with the requirement to enroll all drivers in the pull notice program pursuant to Section 1808.1.

(C) The motor carrier failed to provide all required records and vehicles for a consolidated inspection pursuant to subdivision (b).

(3) If the unsatisfactory rating was assigned for any of the reasons set forth in paragraph (2), the carrier shall submit the required fee as provided in paragraph (4).

(4) Applications for reinspection pursuant to paragraph (3) or for second and subsequent consecutive reinspections under this subdivision shall be accompanied by the fee specified in paragraph (1) of subdivision (e) and shall

be filed within 60 days of issuance of the unsatisfactory compliance rating. The reinspection fee is nonrefundable.

(5) When a motor carrier's Motor Carrier of Property Permit or Public Utilities Commission operating authority is suspended as a result of an unsatisfactory compliance rating, the department shall conduct no reinspection until requested to do so by the Department of Motor Vehicles or the Public Utilities Commission, as appropriate.

(i) It is the intent of the Legislature that the department make its best efforts to inspect terminals within the resources provided. In the interest of the state, the Commissioner of the California Highway Patrol may extend for a period not to exceed six months the inspection terms beginning prior to July 1, 1990.

(j) To encourage motor carriers to attain continuous satisfactory compliance ratings, the department may establish and implement an incentive program consisting of the following:

(1) After the second consecutive satisfactory compliance rating assigned to a motor carrier terminal as a result of an inspection conducted pursuant to subdivision (d), and after each consecutive satisfactory compliance rating thereafter, an appropriate certificate, denoting the number of consecutive satisfactory ratings, shall be awarded to the terminal, unless the terminal has received an unsatisfactory compliance rating as a result of any inspection conducted in the interim between the consecutive inspections conducted under subdivision (d), or the motor carrier is rated unsatisfactory by the department following a controlled substances and alcohol testing program inspection. The certificate authorized under this paragraph shall not be awarded for performance in the administrative review authorized under paragraph (2). However, the certificate shall include a reference to any administrative reviews conducted during the period of consecutive satisfactory ratings.

(2) Unless the department's evaluation of the motor carrier's safety record indicates a declining level of compliance, a terminal that has attained two consecutive satisfactory compliance ratings assigned following inspections conducted pursuant to subdivision (d) is eligible for an administrative review in lieu of the next required inspection, unless the terminal has received an unsatisfactory compliance rating as a result of any inspection conducted in the interim between the consecutive inspections conducted under subdivision (d). An administrative review shall consist of all of the following:

(A) A signed request by a terminal management representative requesting the administrative review in lieu of the required inspection containing a promise to continue to maintain a satisfactory level of compliance for the next 25-month inspection term.

(B) A review with a terminal management representative of the carrier's record as contained in the department's files. If a terminal has been authorized a second consecutive administrative review, the review required under this subparagraph is optional, and may be omitted at the carrier's request.

(C) Absent any cogent reasons to the contrary, upon completion of the requirements of subparagraphs (A) and (B), the safety compliance rating assigned during the last required inspection shall be extended for 25 months.

(3) Not more than two administrative reviews may be conducted consecutively. At the completion of the 25-month inspection term following a second administrative review, a terminal inspection shall be conducted pursuant to subdivision (d). If this inspection results in a satisfactory compliance rating, the terminal shall again be eligible for an administrative

review in lieu of the next required inspection. If the succession of satisfactory ratings is interrupted by any rating of other than satisfactory, irrespective of the reason for the inspection, the terminal shall again attain two consecutive satisfactory ratings to become eligible for an administrative review.

(4) As a condition for receiving the administrative reviews authorized under this subdivision in lieu of inspections, and in order to ensure that compliance levels remain satisfactory, the motor carrier shall agree to accept random, unannounced inspections by the department.

Amended Ch. 58, Stats. 1994. Effective April 26, 1994.

Amended Sec. 80, Ch. 1154, Stats. 1996. Effective September 30, 1996.

Amended Sec. 1, Ch. 210, Stats. 1997. Effective January 1, 1998.

Amended Sec. 68, Ch. 877, Stats. 1998. Effective January 1, 1999.

Amended Sec. 14, Ch. 1008, Stats. 1999. Effective January 1, 2000.

Amended Sec. 5, Ch. 610, Stats. 2002. Effective January 1, 2003.

The 2002 amendment added the italicized material.

Unsatisfactory Rating Notification

34501.13. If the inspection of a carrier facility, maintenance facility, or terminal of any person who operates a schoolbus results in an unsatisfactory terminal rating by the department, the department shall notify the school board of the district that is responsible for the terminal.

Added Ch. 359, Stats. 1989. Effective January 1, 1990.

Amended Sec. 24.4, Ch. 1007, Stats. 1999. Effective January 1, 2000.

Grape Gondolas: Inspection

34501.14. (a) Notwithstanding Section 34501.12, for purposes of this division, safety inspections of grape gondolas are governed by this section.

(b) Every registered owner of a grape gondola shall submit an application and the fee specified in subdivision (g) to the department for the initial inspection required by this section. The initial application shall be submitted on or before July 1, 1993. The inspection term for a grape gondola shall expire 25 months from the date the department conducts the inspection, and issues a certificate indicating the gondola has passed the inspection, and every 25 months thereafter. Applications and fees for subsequent inspections and certificates shall be submitted not later than seven months before the expiration of the then current inspection term. If the registered owner has submitted the inspection application and the required accompanying fees, but the department is unable to complete the inspection within the 25-month inspection period, then no additional fee shall be required for the inspection requested in the original application.

(c) On and after July 1, 1993, no person may operate any grape gondola without having submitted an inspection application and the required fees to the department as required by this section.

(d) On and after January 1, 1995, no person may operate any grape gondola, without the inspection described in subdivision (e) having been performed and a certificate having been issued to the owner.

(e) The safety inspection undertaken pursuant to this section shall be limited to an inspection of the brake system, steering, lights, connections, wheels and tires, frame, and suspension.

(f) For purposes of undertaking the inspection of grape gondolas under this section, the department shall schedule all inspections at one central location during a continuous eight-week period every odd-numbered year with at least two days of each week during that eight-week period devoted to the actual inspection. If the gondola does not pass its first inspection, it may be reinspected during the eight-week period at no additional cost.

(g) Fees shall be established by the department in an amount equal to the actual costs incurred by the department in carrying out this section, but not to exceed twenty-five dollars (\$25) for each inspection or reinspection.

(h) As used in this section, “grape gondola” means a motor vehicle which has been permanently altered and is attached to a grape tank by two means. The first mean is by use of a kingpin on the trunk which is centered through a turntable assembly on the tank. The second means of attachment is through the use of a pair of horizontal crossarms between the drive axle and the rear tank axle. The tank is designed to pivot off of the chassis on two support arms during dumping, and is further designed to be specifically compatible with dumping facilities of the wineries.

(i) This section only applies to a grape gondola that is used under all of the following conditions:

- (1) For 60 days or less during any calendar year.
- (2) For not more than 500 miles in any calendar year.
- (3) Only for the transportation of grapes.

Added Ch. 724, Stats. 1992. Effective January 1, 1993.

Out-of-Service Order

34501.15. (a) The regulations adopted pursuant to Section 34501 shall require that any driver of a commercial motor vehicle, as defined in Section 15210, be ordered out of service for 24 hours if the driver is found to have 0.01 percent or more, by weight, of alcohol in his or her blood.

(b) This section shall become operative on January 1, 1992, and shall remain operative until the director determines that federal regulations adopted pursuant to the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. Sec. 2701 et seq.) contained in that act and Section 391.15 of Title 49 of the Code of Federal Regulations do not require the state to order the operator of a commercial vehicle out of service for 24 hours when the operator has a measurable concentration of alcohol in his or her blood.

(c) The director shall submit a notice of the determination under subdivision (b) to the Secretary of State, and this section shall be repealed upon the receipt of that notice.

Repealed Ch. 1114, Stats. 1989. Operative on notice of the Secretary of State.

NOTE: The preceding section shall remain in effect until notice to the contrary is received from the Secretary of State.

Information for Employees

34501.16. (a) Every employer of a commercial driver shall provide information to that employee at the time of hiring and to all employed commercial drivers annually, concerning all of the following:

(1) The prohibition against driving a commercial motor vehicle with over 0.04 percent or more, by weight, alcohol in his or her blood on and after January 1, 1992.

(2) The requirement to be placed out of service for 24 hours if the person's blood-alcohol concentration is tested to be 0.01 percent or more, by weight, on and after January 1, 1992.

(b) The Department of Motor Vehicles shall include the information prescribed in subdivision (a), together with information concerning the alcohol concentration in a person's blood resulting from consumption of alcoholic beverages, in each publication of the commercial driver's handbook published after January 1, 1990.

(c) This section shall remain operative until the director determines that federal regulations adopted pursuant to the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. Sec. 2701 et seq.) do not require the state to implement the prohibitions and requirements in paragraphs (1) and (2) of subdivision (a).

(d) The director shall submit a notice of the determination under subdivision (c) to the Secretary of State, and this section shall be repealed

upon the receipt of that notice.

Repealed Ch. 1114, Stats. 1989. Operative on notice of the Secretary of State.

NOTE: The preceding section shall remain in effect until notice to the contrary is received from the Secretary of State.

Paratransit Vehicles: Safety Inspection Requirements

34501.17. (a) All paratransit vehicles shall be regularly and systematically inspected, maintained, and lubricated by the owner or operator in accordance with the manufacturer's recommendations, or more often if necessary to ensure the safe operating condition of the vehicle. The maintenance shall include, at a minimum, in-depth inspection of the vehicle's brake system, steering components, lighting system, and wheels and tires, to be performed at intervals in accordance with the manufacturer's recommendations.

(b) All owners or operators of paratransit vehicles shall document each systematic inspection, maintenance, and lubrication and repair performed for each vehicle subject to this section. Required records shall include service performed, the name of the person performing the service, the date that the service was performed, and the odometer reading of the vehicle at the time of the service. The records shall be maintained for the period that the vehicle is in service at the place of business in this state of the owner or operator of the vehicle, and shall be presented upon demand to any authorized representative of the department. The odometer of a paratransit vehicle shall be maintained in proper working order.

Added Sec. 3, Ch. 241, Stats. 1998. Effective January 1, 1999.

Motor Carriers: Replacement of Drivers: Required Inspection

34501.18. (a) Every motor carrier regularly employing more than 20 full-time drivers shall report to the department whenever it replaces more than half of its drivers within a 30-day period. Within 21 days of receipt of that report, the department shall inspect the motor carrier to ensure that the motor carrier is complying with all safety of operations requirements, including, but not limited to, controlled substances testing and hours-of-service regulations. The reporting requirement of this subdivision does not apply to a motor carrier who, through normal seasonal fluctuations in the business operations of the carrier, or through termination of a contract for transportation services, other than a collective bargaining agreement, replaces drivers in one geographical location with drivers in another geographical location.

(b) For the purposes of subdivision (a), "employing" means having an employer-employee relationship with a driver or contracting with an owner-operator, as described in Section 34624, to provide transportation services for more than 30 days within the previous year.

(c) For the purposes of subdivision (a), "full-time" means that the driver is on-duty with the motor carrier for an average of 30 hours or more per week during the course of his or her employment or contract with the motor carrier.

Added Sec. 1, Ch. 789, Stats. 2001. Effective January 1, 2002.

Safety Standards

34502. In adopting rules and regulations, the Department of the California Highway Patrol shall consider as evidence of generally accepted safety standards the rules and regulations which have been adopted by the Public Utilities Commission.

Added Ch. 2148, Stats. 1963. Effective September 20, 1963.

Legislative Intent: Uniform Regulation

34503. It is the legislative intention in enacting this division that the rules and regulations adopted by the Department of the California Highway Patrol pursuant to this division shall apply uniformly throughout the State of California, and no state agency, city, city and county, county, or other political subdivision of this State, including, but not limited to, a chartered city, city and county, or county, shall adopt or enforce any ordinance or regulation which is inconsistent with the rules and regulations adopted by the department pursuant to this division.

Added Ch. 2148, Stats. 1963. Effective September 20, 1963.

Enforcement

34504. The Department of the California Highway Patrol shall enforce the rules and regulations adopted pursuant to Section 34501. Rules and regulations adopted pursuant to Section 34501 shall become effective on March 1, 1965.

Added Ch. 2148, Stats. 1963. Effective September 20, 1963.

Tour Buses: Inspection

34505. (a) Tour bus operators shall, in addition to the systematic inspection, maintenance, and lubrication services required of all motor carriers, require each tour bus to be inspected at least every 45 days, or more often if necessary to ensure safe operation. This inspection shall include, but not be limited to, all of the following:

- (1) Brake adjustment.
- (2) Brake system components and leaks.
- (3) Steering and suspension systems.
- (4) Tires and wheels.

(b) A tour bus shall not be used to transport passengers until all defects listed during the inspection conducted pursuant to subdivision (a) have been corrected and attested to by the signature of the operator's authorized representative.

(c) Records of inspections conducted pursuant to subdivision (a) shall be kept at the operator's maintenance facility or terminal where the tour bus is regularly garaged. The records shall be retained by the operator for one year, and shall be made available for inspection upon request by any authorized employee of the department. Each record shall include, but not be limited to, all of the following:

- (1) Identification of the vehicle, including make, model, license number, or other means of positive identification.
- (2) Date and nature of each inspection and any repair performed.
- (3) Signature of operator's authorized representative attesting to the inspection and to the completion of all required repairs.
- (4) Company vehicle number.

Added Ch. 1306, Stats. 1986. Effective January 1, 1987.

Recommended Suspension, Revocation, or Denial of Tour Bus Operating Authority

34505.1. (a) Upon determining that a tour bus operator has either (1) failed to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, and, in the department's opinion, that failure presents an imminent danger to public safety or constitutes such a consistent failure as to justify a recommendation to the Public Utilities Commission or the Interstate Commerce Commission or (2) failed to enroll all drivers in the

pull notice system as required by Section 1808.1, the department shall recommend to the Public Utilities Commission () that the carrier's operating authority be suspended, denied, or revoked, or to the federal Highway Administration Office of Motor Carriers, that appropriate administrative action be taken against the carrier's Interstate Commerce Commission operating authority, whichever is appropriate. For purposes of this subdivision, two consecutive unsatisfactory compliance ratings for an inspected terminal assigned because the tour bus operator failed to comply with the periodic report requirements of Section 1808.1 or the cancellation of the operator's enrollment by the Department of Motor Vehicles for nonpayment of required fees is a consistent failure. However, when recommending denial of an application for new or renewal authority, the department need not conclude that the carrier's failure presents an imminent danger to public safety or that it constitutes a consistent failure. The department need only conclude that the carrier's compliance with the safety-related matters described in paragraph (1) of subdivision (a) is sufficiently unsatisfactory to justify a recommendation for denial. The department shall retain a record, by operator, of every recommendation made pursuant to this section.

(b) Before transmitting a recommendation pursuant to subdivision (a), the department shall notify the carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension, revocation, or denial of the carrier's operating authority by the California Public Utilities Commission or the Interstate Commerce Commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification pursuant to subdivision (a).

Amended Ch. 272 Stats. 1993. Effective August 2, 1993.

Periodic Inspection by Motor Carrier

34505.5. (a) Every motor carrier operating any vehicle described in subdivision (a), (b), (e), (f), or (g) of Section 34500, except those vehicles exempted under Section 34501.12, shall, as a part of the systematic inspection, maintenance, and lubrication services required of all motor carriers, require the vehicle or vehicles for which it is responsible pursuant to Section 34501.12 to be inspected at least every 90 days, or more often if necessary to ensure safe operation. Vehicles which are out of service for periods greater than 90 calendar days are not required to be inspected at 90-day intervals if they are inspected before operation on the highway. This inspection shall include, but not be limited to, all of the following:

- (1) Brake adjustment.
- (2) Brake system components and leaks.
- (3) Steering and suspension systems.
- (4) Tires and wheels.
- (5) Vehicle connecting devices.

(b) No vehicle subject to this section shall be operated on the highway other than to a place of repair until all defects listed during the inspection conducted pursuant to subdivision (a) have been corrected and attested to by the signature of the motor carrier's authorized representative.

(c) Records of inspections conducted pursuant to subdivision (a) shall be

kept at the motor carrier's terminals, as designated in accordance with Section 34501.12. The records shall be retained by the motor carrier for two years, and shall be made available for inspection upon request by any authorized employee of the department. Each record shall include, but not be limited to, all of the following:

(1) Identification of the vehicle, including make, model, license number, company vehicle number, or other means of positive identification.

(2) Date and nature of each inspection and any repair performed.

(3) Signature of the motor carrier's authorized representative attesting to the inspection and to the completion of all required repairs.

(d) Printouts of inspection and maintenance records maintained in computer systems shall be accepted in lieu of signed inspection or repair records if the printouts include the information required in paragraphs (1) and (2) of subdivision (c).

(e) Notwithstanding subdivisions (a) to (d), inclusive, records of 90-day inspections need not be retained in California for interstate vehicles which are not physically based in California. However, when these vehicles are present in California, they are subject to inspection by the department. If the inspection results indicate maintenance program deficiencies, the department may require the motor carrier to produce the maintenance records or copies of those records for inspection within 10 working days.

Amended Ch. 58, Stats. 1994. Effective April 26, 1994.

Motor Carriers of Property and Motortrucks: Failure to Meet Requirements

34505.6. (a) Upon determining that a motor carrier of property who is operating any vehicle described in subdivision (a), (b), (e), (f), (g), or (k) of Section 34500, or any motortruck of two or more axles that is more than 10,000 pounds gross vehicle weight rating, on a public highway, has done any of the following, the department shall recommend that the Department of Motor Vehicles suspend or revoke the carrier's motor carrier permit, or for interstate operators, the department shall recommend to the Federal Motor Carrier Safety Administration that appropriate administrative action be taken against the carrier:

(1) Failed to maintain any vehicle of a type described above in a safe operating condition or to comply with the Vehicle Code or with applicable regulations contained in Title 13 of the California Code of Regulations, and, in the department's opinion, that failure presents an imminent danger to public safety or constitutes a consistent failure so as to justify a suspension or revocation of the motor carrier's motor carrier permit.

(2) Failed to enroll all drivers in the pull-notice system as required by Section 1808.1.

(3) Failed to submit any application or pay any fee required by subdivision (e) or (h) of Section 34501.12 within the timeframes set forth in that section.

(b) Upon determining that a household goods carrier, or a household goods carrier transporting used office, store, or institution furniture and fixtures under its household goods carrier permit issued under Section 5137 of the Public Utilities Code, operating any vehicle described in subdivision (a), (b), (e), (f), (g), or (k) of Section 34500 on a public highway has done any of the following, the department shall recommend that the Public Utilities Commission deny, suspend, or revoke the carrier's operating authority, or for interstate operators, the department shall recommend to the Federal Motor Carrier Safety Administration that appropriate administrative action be taken against the carrier:

(1) Failed to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with applicable regulations contained in Title 13 of the California Code of Regulations, and, in the department's opinion, that failure presents an imminent danger to public safety or constitutes a consistent failure so as to justify a suspension, revocation, or denial of the motor carrier's operating authority.

(2) Failed to enroll all drivers in the 2 pull-notice system as required by Section 1808.1.

(3) Failed to submit any application or pay any fee required by subdivision (e) or (h) of Section 34501.12 within the timeframes set forth in that section.

(c) For purposes of this section, two consecutive unsatisfactory compliance ratings for an inspected terminal assigned because the motor carrier failed to comply with the periodic report requirements of Section 1808.1 or the cancellation of the carrier's enrollment by the Department of Motor Vehicles for the nonpayment of required fees is a consistent failure. The department shall retain a record, by operator, of every recommendation made pursuant to this section.

(d) Before transmitting a recommendation pursuant to subdivision (a), the department shall notify the carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record or compliance with Section 1808.1 or subdivision (e) or (h) of Section 34501.12 is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension, revocation, or denial of the carrier's motor carrier permit by the Department of Motor Vehicles, suspension, revocation, of the motor carrier's operating authority by the California Public Utilities Commission, or administrative action by the Federal Motor Carrier Safety Administration.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification pursuant to subdivision (a) or (b).

(e) Upon receipt of a written recommendation from the department that a motor carrier permit or operating authority be suspended, revoked, or denied, the Department of Motor Vehicles or Public Utilities Commission, as appropriate, shall, pending a hearing in the matter pursuant to Section 34623 or appropriate Public Utilities Commission authority, suspend the motor carrier permit or operating authority. The written recommendation shall specifically indicate compliance with subdivision (d).

Amended Ch. 272 Stats. 1993. Effective August 2, 1993.

Amended Ch. 58, Stats. 1994. Effective April 26, 1994.

Amended Sec. 51, Ch. 1042, Stats. 1996. Effective September 29, 1996.

Amended Sec. 11, Ch. 652, Stats. 1997. Effective January 1, 1998.

Amended Sec. 2, Ch. 1006, Stats. 1999. Effective January 1, 2000. Supersedes Ch. 1005.

Amended Sec. 9, Ch. 860, Stats. 2000. Effective January 1, 2001.

Recommended Suspension: Failure to Comply

34505.7. (a) Upon determining that a private carrier of passengers, as defined in Section 4001 of the Public Utilities Code, has either (1) failed to maintain any vehicle of the carrier in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety, and, in the department's opinion, the failure presents an imminent danger to public safety or constitutes such a consistent failure as to justify a recommendation

to the Public Utilities Commission, or (2) failed to enroll all drivers in the pull notice system as required by Section 1808.1, the department shall make a written recommendation to the Public Utilities Commission that the carrier's registration be suspended. Two consecutive unsatisfactory terminal ratings assigned for failure to comply with the periodic report requirements in Section 1808.1, or cancellation of an employer's enrollment by the Department of Motor Vehicles for nonpayment of fees, constitutes a consistent failure. The department shall retain a record, by operator, of every recommendation made pursuant to this section.

(b) Before transmitting a recommendation pursuant to subdivision (a), the department shall give written notice to the carrier of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's registration by the California Public Utilities Commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required by this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification pursuant to subdivision (a).

(c) Commercial vehicle inspection facilities along the border of Mexico, including those in Calexico and Otay Mesa, shall be staffed at all times by a California Highway Patrol inspector whenever those facilities are open to the public. The California Highway Patrol shall also assign, as staffing permits, a commercial inspector to control truck traffic entering the United States at the Tecate border crossing.

Amended Sec. 52, Ch. 1042, Stats. 1996. Effective September 29, 1996.

Intermodal Roadability Inspections Program

34505.9. (a) An ocean marine terminal that receives and dispatches intermodal chassis may conduct the intermodal roadability inspection program, as described in this section, in lieu of the inspection required by Section 34505.5, if the terminal meets all of the following conditions:

(1) More than 1,000 chassis are based at the ocean marine terminal.

(2) The ocean marine terminal, following the two most recent consecutive inspections required by Section 34501.12, has received satisfactory compliance ratings, and the terminal has received no unsatisfactory compliance ratings as a result of any inspection conducted in the interim between the consecutive inspections conducted under Section 34501.12.

(3) Each intermodal chassis exiting the ocean marine terminal shall have a current decal and supporting documentation in accordance with Section 396.17 of Title 49 of the Code of Federal Regulations.

(4) The ocean marine terminal's intermodal roadability inspection program () ¹ ***shall consist*** of all of the following:

(A) Each time an intermodal chassis is released from the ocean marine terminal, the chassis shall be inspected. The inspection shall include, but not be limited to, brake adjustment, brake system components and leaks, suspension systems, tires and wheels, vehicle connecting devices, and lights and electrical system, ***and shall include a visual inspection of the chassis to determine that it has not been tampered with.***

(B) Each inspection shall be recorded on a daily roadability inspection report () ² ***that*** shall include, but not be limited to, all of the following:

(i) Positive identification of the intermodal chassis, including company identification ***number and vehicle license plate*** number.

(ii) Date and nature of each inspection.

(iii) Signature, ***under penalty of perjury***, of the ocean marine terminal operator or an authorized representative ***that the inspection has been performed.***

(iv) The inspector shall affix a green tag to a chassis that has passed inspection and a red tag to a chassis that has failed inspection. The tag shall contain the name of the inspector and the date and time that the inspection was completed and shall be placed in a conspicuous location so that it may be viewed from the rear of the vehicle. The tag shall be provided by the marine terminal operator and shall meet specifications determined by the Department of the California Highway Patrol. The provisions of this subparagraph shall also be applicable to an intermodal chassis inspected by a marine terminal operator pursuant to Section 34505.5.

(C) Records of each inspection conducted pursuant to subparagraph (A) shall be retained for 90 days at the ocean marine terminal at which each chassis is based and shall be made available upon request by any authorized employee of the department.

(D) Defects noted on any intermodal chassis shall be repaired, and the repairs shall be recorded on the intermodal chassis maintenance file, before the intermodal chassis is released from the control of the ocean marine terminal. No vehicle subject to this section shall be ***released to a motor carrier or*** operated on the highway other than to a place of repair until all defects listed during the inspection conducted pursuant to subparagraph (A) have been corrected and attested to by the signature of the operator's authorized representative.

(E) Records of maintenance or repairs performed pursuant to the inspection in subparagraph (A) shall be maintained at the ocean marine terminal for two years and shall be made available upon request of the department. Repair records may be retained in a computer system if printouts of those records are provided to the department upon request.

(F) Individuals performing ocean marine terminal roadability inspections pursuant to this section shall be qualified, at a minimum, as set forth in Section 396.19 of Title 49 of the Code of Federal Regulations. Evidence of each inspector's qualification shall be retained by the ocean marine terminal operator for the period during which the inspector is performing intermodal roadability inspections.

(b) The records maintained pursuant to paragraphs (C) and (E) of subdivision (a) and Section 34505.5 shall be made available during normal business hours to any motor carrier or driver or the authorized representative thereof who has been engaged to transport an intermodal container on a chassis inspected pursuant to this section or Section 34505.5 from the ocean marine terminal.

(c) Any citation issued for the violation of any state or federal law related to the defective condition of an intermodal chassis subject to inspection pursuant to this section or Section 34505.5, that is not owned by that motor carrier or commercial driver, shall be issued to the entity responsible for the inspection and maintenance of the intermodal chassis, unless the officer determines that the defective condition of the intermodal chassis was caused by the failure of the driver to operate a commercial motor vehicle in a safe manner.

(d) Any provision contained in a contract between the registered owner or lessee of an intermodal chassis subject to inspection pursuant to this section, or any other entity responsible for the inspection and maintenance of the intermodal chassis, and any

motor carrier or any contract between a motor carrier and another motor carrier engaged to transport an intermodal container on a chassis subject to inspection pursuant to this section that contains a hold harmless or indemnity clause concerning defects in the physical condition of that chassis shall be void as against public policy. This subdivision shall not apply to damage to the intermodal chassis caused by the negligent or willful failure of the motor carrier to operate a commercial motor vehicle in a safe manner.

(e) Following a terminal inspection in which the department determines that an operator of an ocean marine terminal () ³ has failed to comply with the requirements of this section, the department shall conduct a reinspection within 120 days as specified in subdivision (h) of Section 34501.12. If the terminal fails the reinspection, the department shall direct the operator to comply with the requirements of Section 34505.5 until eligibility to utilize the inspection program described in this section is reestablished pursuant to subdivision (a). If any inspection results in an unsatisfactory rating due to conditions presenting an imminent danger to the public () ⁴ ***safety or due to the operator's repeated failure to inspect and repair intermodal chassis pursuant to this section, the department shall immediately forward a recommendation to the Department of Motor Vehicles to suspend the operator's motor carrier property permit, and forward a recommendation to the Federal Motor Carrier Safety Administration for administrative or other action deemed necessary against the carrier's interstate operating authority, pursuant to Section 34505.6 or 34505.7.***

(f) ***Any driver who believes that an intermodal chassis is in an unsafe operating condition may request that the chassis be reinspected by the entity responsible for the inspection and maintenance of the chassis pursuant to this section or Section 34505.5. The request for reinspection, any corrective action taken, or the reason why corrective action was not taken shall be recorded in the intermodal chassis maintenance file.***

(g) ***No commercial driver shall be threatened, coerced, or otherwise retaliated against by any ocean marine terminal operator for contacting a law enforcement agency with regard to the physical condition of an intermodal chassis or for requesting that the intermodal chassis be reinspected or repaired.***

(h) For the purposes of this section, the following definitions shall apply:

(1) "Intermodal chassis" means a trailer designed to carry intermodal freight containers.

(2) "Ocean marine terminal" means a terminal, as defined in Section 34515, located at a port facility that engages in the loading and unloading of the cargo of () ⁵ ***oceangoing*** vessels.

(i) ***Nothing in this section shall relieve a commercial driver or commercial motor carrier of any duty imposed by state or federal law related to the safe operation of a commercial motor vehicle.***

(j) ***Nothing in this section shall affect the rights, duties, and obligations set forth in Section 2802 of the Labor Code.***

Added Sec. 1, Ch. 340, Stats. 1998. Effective August 24, 1998.

Amended Sec. 163, Ch. 135, Stats. 2000. Effective January 1, 2001.

Amended Sec. 1, Ch. 897, Stats. 2002. Effective January 1, 2003.

The 2002 amendment added the italicized material, and at the point(s) indicated, deleted the following:

1. "consists"

2. ", which"

3. "utilizing the intermodal roadability inspection program"

4. "safety, as described in Section 34505.6 or 34505.7, the department immediately shall direct the operator to comply with the requirements of Section 34505.5 until eligibility to utilize the inspection program described in this section is reestablished pursuant to subdivision (a). (e)"

5. "ocean-going"

Retention of Records: Contract Transportation Services

34505.10. Motor carriers who contract or subcontract transportation service for other motor carriers shall retain all required records relating to the dispatch of vehicles and drivers and the pay of drivers that are not required to be retained by the carrier for whom the contracted or subcontracted service is performed.

Added Sec. 12, Ch. 652, Stats. 1997. Effective January 1, 1998.

Violations: Misdemeanors

34506. It is a misdemeanor to fail to comply with any rule or regulation adopted by the Department of the California Highway Patrol pursuant to Section 34501, 34501.5, 34508, or 34513 regarding any of the following:

- (a) Hours of service of drivers.
- (b) Hazardous material transportation.
- (c) Schoolbus construction, design, color, equipment, maintenance, or operation.
- (d) Youth bus equipment, maintenance, or operation.
- (e) Tour bus equipment, maintenance, or operation.
- (f) Equipment, maintenance, or operation of any vehicle described in subdivision (a), (b), (c), (d), (e), (f), or (g) of Section 34500.
- (g) Equipment, maintenance, or operation of any school pupil activity bus.

Amended Ch. 928, Stats. 1991. Effective October 14, 1991.

Violations: Infractions

34506.3. Except as otherwise provided in this division, it is an infraction to fail to comply with any rule or regulation adopted by the department pursuant to this division.

Amended Ch. 298, Stats. 1991. Effective January 1, 1992.

Removal or Impounding of Certain Unsafe Vehicles

34506.4. (a) Any member of the Department of the California Highway Patrol may remove from the highway and have placed in a storage facility, any vehicle described in subdivision (a) of Section 22406, subdivision (g) of Section 34500, and any motortruck with a gross vehicle weight rating of more than 10,000 pounds, which is in an unsafe condition.

(b) Any member of the Department of the California Highway Patrol may impound any farm labor vehicle operated in violation of subdivision (b) of Section 2800, subdivision (a) of Section 24002.5, or subdivision (a) of Section 31402, subject to the following requirements:

(1) A farm labor vehicle impounded for a first violation of subdivision (b) of Section 2800, subdivision (a) of Section 24002.5, or subdivision (a) of Section 31402 may be released within 24 hours upon delivery to the impounding authority of satisfactory proof that the vehicle will be legally moved or transported to a place of repair.

(2) A farm labor vehicle shall be impounded for not less than 10 days for a second violation of subdivision (b) of Section 2800, subdivision (a) of Section 24002.5, or subdivision (a) of Section 31402, or any combination of two of those provisions, if the original equipment or maintenance violation has not been repaired to comply with existing law. The farm labor vehicle shall be released after 10 days upon delivery to the impounding authority of satisfactory proof that the vehicle has been repaired to comply with existing law, or upon delivery to the impounding agency of satisfactory proof that the

vehicle will be lawfully moved or transported to a place of repair.

(3) A farm labor vehicle shall be impounded for not less than 30 days for a third or subsequent violation of subdivision (b) of Section 2800, subdivision (a) of Section 24002.5, or subdivision (a) of Section 31402, or any combination of three or more of those provisions, if the original equipment or maintenance violation has not been repaired to comply with existing law. The farm labor vehicle shall be released after 30 days upon delivery to the impounding authority of satisfactory proof that the vehicle has been repaired to comply with existing law, or upon delivery to the impounding agency of satisfactory proof that the vehicle will be lawfully moved or transported to a place of repair.

(c) All towing and storage fees for a vehicle removed under this section shall be paid by the owner.

Amended Sec. 4, Ch. 873, Stats. 2000. Effective January 1, 2001.

Farm Labor Vehicles: Forfeiture

34506.5. (a) A farm labor vehicle is subject to forfeiture as a nuisance if it is driven on a highway in violation of subdivision (b) of Section 2800, subdivision (a) of Section 24002.5, or subdivision (a) of Section 31402 and has been impounded for a second or subsequent time pursuant to paragraph (3) of subdivision (b) of Section 34506.4.

(b) (1) A registered or legal owner of record at the time of impoundment may request a hearing to determine the validity of the impoundment pursuant to paragraph (1) or (2) of subdivision (n) of Section 14607.6.

(2) If it is determined that the necessary repairs had been completed and the farm labor vehicle complied with existing laws at the time of impoundment, the agency employing the person who directed the impoundment shall be responsible for the costs incurred for towing and storage.

(c) Procedures established in subdivisions (e), (f), (g), (h), (i), (j), (k), (l), (o), (p), (q), (r), (t), (u), and (v) of Section 14607.6 shall be utilized for the forfeiture of an impounded farm labor vehicle.

Added Sec. 5, Ch. 873, Stats. 2000. Effective January 1, 2001.

Display of Symbol

34507. To assist the department in enforcing the provisions of this division, every vehicle which is subject to this division and to the jurisdiction, control, and regulation of the Public Utilities Commission or the Interstate Commerce Commission shall have displayed prominently a distinctive identifying symbol as provided for in the Public Utilities Code.

Amended Ch. 1715, Stats. 1984. Effective January 1, 1985.

Carrier Identification Number

34507.5. (a) Every motor carrier, as defined in Section 408, and every motor carrier of property, and for-hire motor carrier of property, as defined in Section 34601, shall obtain a carrier identification number from the department. Application for a carrier identification number shall be on forms furnished by the department. Information provided in connection with applications for carrier identification numbers shall be updated by motor carriers upon request from the department.

(b) The carrier identification number assigned to the motor carrier under whose operating authority or motor carrier permit the vehicle or combination of vehicles is being operated shall be displayed on both sides of each vehicle, or on both sides of at least one motor vehicle in each combination of the following vehicles while engaged in intrastate commerce:

(1) Each vehicle set forth in Section 34500.

(2) Any motortruck of two or more axles that is more than 10,000 pounds gross vehicle weight rating.

(3) Any other motortruck or motor vehicle used to transport property for compensation.

(c) A vehicle or combination of vehicles listed in subdivision (b) that is operated under a rental agreement with a term of not more than 30 calendar days shall meet all of the following requirements:

(1) Have displayed on both sides of each vehicle or on both sides of one of the vehicles in each combination of vehicles the name or trademark of the lessor.

(2) Have displayed on both sides of each vehicle or on both sides of one of the vehicles in each combination of vehicles any of the following numbers issued to the lessor:

(A) The carrier identification number issued by the United States Department of Transportation.

(B) A valid operating authority number.

(C) A valid motor carrier of property number.

(3) (A) Have in the vehicle or combination of vehicles a copy of the rental agreement entered into by the lessor and the vehicle operator.

(B) The rental agreement shall be available for inspection immediately upon the request of any authorized employee of the department or any regularly employed and salaried police officer or deputy sheriff.

(C) If the rented vehicle or combination of vehicles is operated in conjunction with a commercial enterprise, the rental agreement shall include the operator's carrier identification number or motor carrier of property permit number.

(d) A vehicle or combination of vehicles that is in compliance with Section 390.21 of Title 49 of the Code of Federal Regulations shall be deemed to be in compliance with subdivision (c).

(e) This section does not apply to any of the following vehicles:

(1) Vehicles described in subdivision (f) of Section 34500, which are operated by a private carrier as defined in subdivision (d) of Section 34601, if the gross vehicle weight rating of the towing vehicle is 10,000 pounds or less, or the towing vehicle is a pickup truck, as defined in Section 471. This exception does not apply to vehicle combinations described in subdivision (k) of Section 34500.

(2) Vehicles described in subdivision (g) of Section 34500, which are operated by a private carrier as defined in subdivision (d) of Section 34601, if the hazardous material transportation does not require the display of placards pursuant to Section 27903, a license pursuant to Section 32000.5, or hazardous waste hauler registration pursuant to Section 25163 of the Health and Safety Code.

(3) Historical vehicles, as described in Section 5004, and vehicles that display special identification plates in accordance with Section 5011.

(4) Implements of husbandry as defined in Chapter 1 (commencing with Section 36000) of Division 16.

(5) Vehicles owned or operated by an agency of the federal government.

(6) Pickup trucks, as defined in Section 471, and two-axle daily rental trucks with gross vehicle weight ratings of less than 26,001 pounds, when operated in noncommercial use.

(f) Subdivision (b) does not apply to the following:

(1) Vehicles that display a valid operating authority or identification number assigned by the former Interstate Commerce Commission, or the Federal Highway Administration, of the United States Department of Transportation.

(2) Vehicles that are regulated by, and that display a valid operating authority number issued by, the Public Utilities Commission, including household goods carriers as defined in Section 5109 of the Public Utilities Code.

(3) For-hire motor carriers of passengers.

(g) The display of the carrier identification number shall be in sharp contrast to the background, and shall be of a size, shape, and color that it is readily legible during daylight hours from a distance of 50 feet.

(h) The carrier identification number for companies no longer in business, no longer operating with the same name, or no longer operating under the same operating authority, identification number, or motor carrier permit shall be removed before sale, transfer, or other disposal of any vehicle marked pursuant to this section.

Amended Sec. 13, Ch. 652, Stats. 1997. Effective January 1, 1998.

Amended Sec. 3, Ch. 380, Stats. 1998. Effective January 1, 1999.

Bus: Carrier Identification Number

34507.6. (a) Every operator of transportation service which is exempt from regulation as a charter-party carrier of passengers pursuant to subdivision (k) or (l) of Section 5353 of the Public Utilities Code, and which furnishes that transportation service in a bus, shall obtain a carrier identification number from the Department of the California Highway Patrol. Application for a carrier identification number shall be on a form furnished by the Department of the California Highway Patrol.

(b) (1) The carrier identification number so obtained by the operator shall be displayed on both sides of each bus used in that transportation service.

(2) The display of the carrier identification number shall be in sharp contrast to the background, and shall be of a size, shape, and color as to be readily legible during daylight hours from a distance of at least 50 feet.

(3) The carrier identification number shall be removed before the sale, transfer, or other disposal of the bus.

Added Ch. 1039, Stats. 1988. Effective January 1, 1989.

Additional Regulations: Schoolbuses

34508. The Department of the California Highway Patrol shall adopt and enforce rules and regulations relating to the equipment, maintenance, construction, design, color, and operation of schoolbuses.

Amended Ch. 774, Stats. 1981. Effective January 1, 1982.

Study: Bus Overcrowding and Obstructed Aisles

34508.5. (a) The department shall, pursuant to its investigation of schoolbus accidents in accordance with Section 12517.1, investigate accidents involving schoolbuses, school pupil activity buses, and youth buses for evidence of overcrowding aboard the bus or obstructed aisles, or both, contributing to increased pupil injury or risk of injury. The department shall also inquire of other states containing large urban areas as to whether increased pupil injuries in schoolbus, school pupil activity bus, and youth bus accidents resulted from overcrowding or obstructed aisles existing at the time of the accident.

(b) The department shall prepare and submit to the Legislature, on or before July 1, 1993, a report on its findings and recommendations from its investigation pursuant to subdivision (a), including recommendations for improving the safe transportation of pupils together with any needed revisions to existing laws or regulations relating to seating aboard schoolbuses, school pupil activity buses, and youth buses and requiring aisles to be unobstructed while those buses are in motion.

Added Ch. 298, Stats. 1991. Effective January 1, 1992.

Vanpool Vehicles: Equipment and Inspection

34509. Vanpool vehicles, as defined in Section 668, and vanpool vehicles when used for purposes other than traveling to and from a work location and transporting not more than 10 persons including the driver, shall be exempt from the regulations adopted pursuant to Section 34501, except that the following shall apply:

(a) The vanpool vehicle shall be equipped with an operable fire extinguisher which is of the dry chemical or carbon dioxide type with an aggregate rating of at least 4-B:C and which is securely mounted and readily accessible.

(b) The vanpool vehicle shall be equipped with a first aid kit, conforming to the minimum requirements for schoolbuses. First aid kits shall be readily visible, accessible, and plainly marked "First Aid Kit."

(c) The vanpool vehicle shall be regularly and systematically inspected, maintained, and lubricated in accordance with the manufacturer's recommendations, or more often if necessary to ensure the safe operating condition of the vehicle. The maintenance shall include, as a minimum, an in-depth inspection of the vehicle's brake system, steering components, lighting system, and wheels and tires, to be performed at intervals of not more than every six months or 6,000 miles, whichever occurs first.

(d) Operators of vanpool vehicles shall document each systematic inspection, maintenance, and lubrication and repair performed for each vehicle under their control. Required records shall include services performed, the person performing the service, the date, and the mileage on the vehicle at the time of the repair. The records shall be maintained with the vehicle for one year, and shall be presented upon demand to any authorized representative of the California Highway Patrol.

(e) Vanpool vehicles being operated pursuant to the exemptions specified in this section shall display, upon the rear and sides of the vehicle, a sign or placard, clearly visible and discernable for a distance of not less than 50 feet, indicating that the vehicle is being used as a vanpool vehicle.

Added Ch. 46, Stats. 1982. Effective January 1, 1983.

Display of Shipping Papers

34510. Persons operating vehicles, or combinations of vehicles, in the transportation of hazardous material and subject to this division, shall carry in the vehicle while en route any shipping papers required to accompany the vehicle in accordance with regulations adopted pursuant to Section 2402. The bill of lading or other shipping paper shall be displayed upon demand of any member of the California Highway Patrol or any police officer of a city who is on duty for the exclusive or main purpose of enforcing the provisions of this code.

Amended Ch. 757, Stats. 1993. Effective January 1, 1994.

Amended Sec. 69, Ch. 877, Stats. 1998. Effective January 1, 1999.

Amended Sec. 8, Ch. 504, Stats. 2001. Effective January 1, 2002.

Civil Action: Safety Regulations Violations

34511. Any violation of any provision of this division or regulation adopted pursuant thereto may be enjoined in a civil action brought by the Attorney General in the name of the people of the State of California, upon request of the department, except that it shall not be necessary to show lack of adequate remedy at law or to show irreparable damage or loss.

The department may not submit a request for civil action and the Attorney General may not bring action pursuant to this section unless the person charged with a violation of this division or regulation adopted pursuant thereto fails to take corrective action after being notified of the

violation by the department, in writing, on at least two occasions over a 60-day period. Prior to the submission of the department's request for civil action, the person charged shall receive, at his or her request, a departmental hearing on the matter and the department's request for civil action shall be forwarded by the department to, and approved by, the Commissioner of the California Highway Patrol.

Added Ch. 789, Stats. 1982. Effective January 1, 1983.

Regulations: Tour Buses: Equipment and Maintenance

34513. The department shall adopt rules and regulations relating to the equipment and maintenance of tour buses.

Added Ch. 1306, Stats. 1986. Effective January 1, 1987.

Roadside Vehicle Safety Inspections

34514. (a) Beginning with the 1990-91 fiscal year, the department shall, upon appropriation of the requisite funds by the Legislature, annually conduct additional roadside vehicle safety inspections of vehicles described in Section 34501.12. These roadside inspections shall be in addition to the maintenance facility and terminal inspections required by that section, and over and above the number of roadside vehicle safety inspections conducted during the 1987-88 fiscal year.

(b) It is the intent of the Legislature that, beginning with the 1990-91 fiscal year, funds are to be appropriated to the department annually, for the purposes of subdivision (a), from the Motor Vehicle Account in the State Transportation Fund, to the extent that sufficient funds are collected pursuant to Section 34501.12.

Amended Ch. 1243, Stats. 1992. Effective September 30, 1992.

Maintenance Facility or Terminal

34515. (a) As used in this division and in regulations adopted pursuant thereto, "maintenance facility or terminal" means any place or places where a vehicle of a type listed in Section 34500 is regularly garaged or maintained, or from which it is operated or dispatched. "Maintenance facility or terminal" may include a private business or residence.

(b) For the purpose of the inspections required by Section 34501.12, "terminal" means the location or locations in this state which are designated by a motor carrier, where subject vehicles may be inspected by the department pursuant to paragraph (3) of subdivision (a) of Section 34501, and where vehicle maintenance and inspection records and driver's records will be made available for inspection.

Amended Ch. 1243, Stats. 1992. Effective September 30, 1992.

Transportation of Food Products

34516. (a) No person shall use or arrange for the use of a refrigerated motor vehicle, tank truck, dry van, or other motor vehicle, to provide transportation of food products for human consumption if the vehicle has been used to transport solid waste destined for landfills, or if precluded from use in accordance with subdivision (c).

(b) A violation of this section is a misdemeanor.

(c) If, pursuant to a federal statute having the same purposes as the act which added this section to the Public Utilities Code during the 1990 portion of the 1989 90 Regular Session, the United States Secretary of Transportation publishes a list of categories of solid waste or hazardous substances which he or she determines make food unsafe as a result of having been transported in a refrigerated motor vehicle, tank truck, dry van, or other motor vehicle also used to transport food products for human consumption, subdivisions (a) and (b) apply to those substances.

(d) A person or corporation charged with a violation of this section may avoid liability upon a showing by clear and convincing evidence that the transportation alleged to violate this section did not in fact endanger the public health, due to the specific protective or remedial actions taken by the person or corporation charged.

Added Ch. 1685, Stats. 1990. Effective January 1, 1991.

Commercial Zones: Vehicles from Other Countries

34517. (a) With respect to a commercial motor vehicle from another country, no person shall operate the vehicle outside the boundaries of a designated commercial zone unless the required operating authority from the Interstate Commerce Commission has first been obtained.

(b) A violation of subdivision (a) is an infraction punishable by a fine of one thousand dollars (\$1,000).

(c) Notwithstanding subdivision (b), a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, shall issue a citation for a violation of subdivision (a) to the driver of the vehicle and order the driver of the vehicle to return the vehicle to its country of origin. The peace officer may impound a vehicle cited under this section and its cargo until the citation and all charges related to the impoundment are cleared. The impoundment charges are the responsibility of the vehicle's owner.

(d) As used in this section, "designated commercial zone" means a commercial zone, as defined in Sections 1048.101 and 1048.102 of Title 49 of the Code of Federal Regulations.

Added Ch. 707, Stats. 1991. Effective January 1, 1992.

Motor Carriers and Drivers: Controlled Substances and Alcohol Use Testing

34520. (a) Motor carriers and drivers shall comply with the controlled substances and alcohol use, transportation, and testing requirements of the United States Secretary of Transportation as set forth in Part 382 (commencing with Section 382.101) of, and Sections 392.5(a)(1) and 392.5(a)(3) of, Title 49 of the Code of Federal Regulations.

(b) (1) Every motor carrier shall make available for inspection, upon the request of an authorized employee of the department, copies of all results and other records pertaining to controlled substances and alcohol use and testing conducted pursuant to federal law, as specified in subdivision (a), including those records contained in individual driver qualification files.

(2) For the purposes of complying with the return-to-duty alcohol or controlled substances test requirements, or both, of Section 382.309 of Title 49 of the Code of Federal Regulations and the followup alcohol or controlled substances test requirements, or both, of Section 382.311 of that title, the department may use those test results to monitor drivers who are motor carriers.

(3) No evidence derived from a positive test result in the possession of a motor carrier shall be admissible in a criminal prosecution concerning unlawful possession, sale, or distribution of controlled substances.

(c) Any drug or alcohol testing consortium, as defined in Section 382.107 of Title 49 of the Code of Federal Regulations, shall mail a copy of all drug and alcohol positive test result summaries to the department within three days of the test. This requirement applies only to drug and alcohol positive tests of those drivers employed by motor carriers who operate terminals within this state.

(d) A transit agency receiving federal financial assistance under Section 3, 9, or 18 of the Federal Transit Act, or under Section 103(e)(4) of Title 23 of

the United States Code, () ¹ ***shall comply with the controlled substances and alcohol use and testing requirements of the United States Secretary of Transportation as set forth in Part 655 (commencing with Section 655.1) of Title 49 of the Code of Federal Regulations.***

(e) The owner-operator shall notify all other motor carriers with whom he or she is under contract when the owner-operator has met the requirements of subdivision (c) of Section 15242. Notwithstanding subdivision (i), a violation of this subdivision is an infraction.

(f) Except as provided in Section 382.301 of Title 49 of the Code of Federal Regulations, an applicant for employment as a commercial driver or an owner-operator seeking to provide transportation services () ² and meeting the requirements of subdivision (b) of Section 34624, may not be placed on duty by a motor carrier until a preemployment test for controlled substances and alcohol use meeting the requirements of the federal regulations referenced in subdivision (a) have been completed and a negative test result has been reported. () ³

(g) An applicant for employment as a commercial driver or an owner-operator, seeking to provide transportation services and meeting the requirements of subdivision (b) of Section 34624, may not be placed on duty by a motor carrier until the motor carrier has completed a full investigation of the driver's employment history meeting the requirements of the federal regulations cited under subdivision (a). Every motor carrier, whether making or receiving inquiries concerning a driver's history, shall document all activities it has taken to comply with this subdivision. () ⁴

(h) A motor carrier that utilizes a preemployment screening service to review applications is in compliance with the employer duties under subdivisions (e) and (f) if the preemployment screening services that are provided satisfy the requirements of state and federal law and the motor carrier abides by any findings that would, under federal law, disqualify an applicant from operating a commercial vehicle. () ⁵

(i) It is a misdemeanor punishable by imprisonment in the county jail for six months and a fine not to exceed five thousand dollars (\$5,000), or by both the imprisonment and fine, for any person to willfully violate this section. As used in this subdivision, "willfully" has the same meaning as defined in Section 7 of the Penal Code. () ⁶

(j) This section does not apply to a peace officer, as defined in Section 830.1 or 830.2 of the Penal Code, who is authorized to drive vehicles described in Section 34500 if that peace officer is participating in a substance abuse detection program within the scope of his or her employment.

Added Ch. 832, Stats. 1994. Effective January 1, 1995.

Amended Sec. 5, Ch. 405, Stats. 1995. Effective January 1, 1996.

Amended Sec. 47, Ch. 724, Stats. 1999. Effective January 1, 2000.

Amended Sec. 3, Ch. 298, Stats. 2001. Effective January 1, 2002.

Amended Sec. 4, Ch. 774, Stats. 2002. Effective September 20, 2002.

The 2002 amendment added the italicized material, and at the point(s) indicated, deleted the following:

1. "as defined in Section 653.7 of Title 49 of the Code of Federal Regulations, concerning controlled substance use, and Section 654.7 of Title 49 of the Code of Federal Regulations, concerning alcohol abuse, shall comply with the controlled substances and alcohol use and testing requirements of the United States Secretary of Transportation as set forth in Part 653 (commencing with Section 653.1) of, and Part 654 (commencing with Section 654.1) of, Title 49 of the Code of Federal Regulations.

(e) An"

2. " "

3. "(f)"

4. "(g)"

5. "(h)"

6. "(i)"

Paratransit Vehicles: Employers and Drivers: Program Participation Requirements

34520.5. (a) All employers of drivers who operate paratransit vehicles, and the drivers of those vehicles, who are not otherwise required to participate in a testing program of the United States Secretary of Transportation, shall participate in a program consistent with the controlled substances and alcohol use and testing requirements of the United States Secretary of Transportation as set forth in Part 382 (commencing with Section 382.101), Part 653 (commencing with Section 653.1), or Part 654 (commencing with Section 654.1) of Title 49 of the Code of Federal Regulations.

(b) Section 34520 is applicable to any controlled substances or alcohol testing program undertaken under this section.

(c) The employer of a paratransit vehicle driver shall participate in the pull notice system defined in Section 1808.1.

Added Sec. 4, Ch. 241, Stats. 1998. Effective January 1, 1999.

Amended Sec. 25, Ch. 1007, Stats. 1999. Effective January 1, 2000.